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EXAMINER	
LONG, FONYA M	

ART UNIT	PAPER NUMBER
3689	

NOTIFICATION DATE	DELIVERY MODE
10/28/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PatentDocketingUS-PaloAlto@dlapiper.com

Office Action Summary	Application No.	Applicant(s)	
	10/623,352	YADAV-RANJAN, RANI	
	Examiner	Art Unit	
	FONYA LONG	3689	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 June 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This communication is a Final Office Action rejection on the merits in response to communications received on June 24, 2009. Claims 1, 2, 11, and 12 have been amended. Claims 1-23 are currently pending and have been addressed below.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claims 1, 2, 11, and 12, Claims 1 and 11 recite the formula for generating a contractor risk assessment score to be calculated by combining the weighted average of scores of the historical contractor variables. However, claims 2 and 12 discloses the CRAS score being calculated by dividing the assigned score on historical contractor variable by the maximum score on historical contractor variable and multiplying by 100 which will provide a percentage. The two formulas contradict themselves. It is unclear what formula is actually being claimed. The formula disclosed in Claims 1 and 11 calculates an average wherein the formula disclosed in Claims 2 and 12 calculates a percentage.

As per Claims 3-10 and 13-23, the claims are dependent from claims 1, 2, 11, and 12, and therefore contain the same deficiencies as stated above.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (WO 02/23443).

As per Claims 1 and 11, Flynn discloses a method and system for providing a contractor risk assessment score (CRAS) (Pages 13-16, discloses raw scores for various risk assessments (character, financial, property, legal, and project)), comprising: a memory for storing data (Page 9, Para. 1, discloses a computer having storage comprising hard disk drives or other memory storage devices); a computer coupled to said memory (Page 9, Para. 1, discloses a computer having storage comprising hard disk drives or other memory storage devices) and programs in execution by said computer (Page 9, Para. 1, discloses program modules being integrated and interacting with each other via the computer), said program collects historical contractor variables (Page 12-14, discloses collecting historical contractor information such as past financial data, data concerning past customer's character, credit and mortgage histories, and judgments in order to perform a risk assessment for a contractor to acquire trade loan) and comprises a formula that generates contractor risk assessment score calculated by combining the weighted average of scores of the historical contractor variables wherein

the contractor risk assessment score is predictive of whether a contractor is able to complete a construction job on time and on budget (Page 16, Para. 1, discloses the adjusted raw scores being totaled (i.e. combining scores) and compared to the lender's underwriting standards to determine whether the applicant's risk is acceptable).

Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to consider variables such as type and size of the business (i.e., structure and size), how long the business has been in operation (i.e. stability), the past performance of the business on other projects, and the type of projects the business are engaged in when performing a risk assessment in order to aid in determining whether the business will be able to repay the loan.

Examiner Notes: The type of historical variables hold little patentable weight in the method and system claim. Examiner asserts that the method a assigning a score to historical contractor variables would be performed the same regardless of the type of variable.

5. Claims 2-4 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (WO 02/23443) in view of Connor et al. (7,359,865).

As per Claims 2 and 12, Flynn discloses a contractor risk assessment score wherein the scores are combined (Pages 13-16, discloses totaling the raw scores for each risk assessment used for determining whether to provide a trade loan to a contractor).

However, Flynn fails to explicitly disclose (CRAS) equaling [ε(Ai) / ε(Mi) * 100].

Connor et al. discloses a method for generating a risk assessment with the concept of (CRAS) equaling [ε(Ai) / ε(Mi) * 100] (Fig. 4, discloses calculating the actual score for risk factors (Ai) (via 44a) and calculating the maximum score for risk factors (Mi) (via 44b), wherein the actual score is divided by the maximum score and multiplied by 100 to obtain a percentage risk (CRAS) (via 44c)).

Therefore, from the teaching of Connor et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and apparatus for producing reduced risk loans using assessment techniques to include (CRAS) equaling [ε(Ai) / ε(Mi) * 100] as taught by Connor et al. in order to aid in determining whether to provide a loan based on the risk assessment.

As per Claims 3 and 13, Flynn discloses the contractor is a construction contractor (Page 8, Para. 1, discloses reducing the risk in loans to contractors for construction projects).

As per Claims 4 and 14, Flynn discloses a formula that determines a sum of assigned scores on said historical contractor variables (Page 16, Para. 1, discloses providing a total of all the adjusted risk assessment raw scores).

6. Claims 5, 6, 8, 15, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (WO 02/23443) in view of Connor et al. (7,359,865)), as applied to Claims 4 and 14 above, and in further view of Chandak et al. (US 2003/0105689).

As per Claims 5 and 15, the Flynn and Connor et al. combination discloses the claimed invention as applied to Claims 4 and 14, above. However, the combination fails

to explicitly disclose the historical contractor variables comprising a payment history value and a credit history value.

Chandak et al. discloses a method and system for determining whether to issue a reward incentive credit card to a customer based on a risk value associated with the customer with the concept of historical variables comprising a payment history value based on payments by the contractor and a credit history value of the contractor ([0027] discloses determining a customer's financial risk value based on past payment history data and credit history information).

Therefore, from the teaching of Chandak et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Flynn and Connor et al. combination to include historical variables comprising a payment history value and a credit history value as taught by Chandak et al. in order to aid in predicting a contractor's behavior based on past occurrences.

As per Claims 6 and 16, the Flynn and Connor et al. combination discloses the claimed invention as applied to Claims 5 and 15, above. However, the combination fails to explicitly disclose variables comprising a value for an amount owed in debt.

Chandak et al. discloses a method and system for determining whether to issue a reward incentive credit card to a customer based on a risk value associated with the customer with the concept of the historical contractor variables further comprise a value for an amount owed in debt by the contractor ([0027] discloses determining a customer's financial risk value based on the customer's debts).

Therefore, from the teaching of Chandak et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Flynn and Connor et al. combination to include variables comprising a value for an amount owed in debt as taught by Chandak et al. in order to aid in determining a contractor's ability to perform according to the loan requirements, if provided a loan.

As per Claims 8 and 18, Flynn discloses the historical contractor variables comprising at least one predefined criterion selected from the group consisting of: length-of-license, Cumulative-total-of-engagements, number-of-Notice-of-completions, Number-of-terminations, Current-engagements, Insurance-held divided by Total-value-of-engagement, Company-structure, number-of-employees, years-in-trade, number-of-liens, Number-of-banks-used, Terminations divided by Years-in-trade, Terminations divided by Total-Engagements, Delays divided by Total-Engagements, Number-of-Tax-Liens, Age-of-Contractor, License-Type, License-Status, Repeat Business-with-Bank, Average-size-of-Engagement, Judgments, and Judgments-satisfied (Page 14, Para. 1, discloses analyzing judgments and liens when conducting a risk assessment).

7. Claims 7 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (WO 02/23443) in view of Connor et al. (7,359,865) and Chandak et al. (US 2003/0105689), as applied to Claims 5 and 15 above, and in further view of Chen (US 2003/0225651).

The Flynn, Connor et al., and Chandak et al. combination discloses the claimed invention. However, the combination fails to explicitly disclose the historical contractor

variables comprising at least a Risk Assessment metric or a length of time since a transmitted alert.

Chen discloses a method for generating fulfillment value at risk scores and assessing the stability of the fulfillment value at risk scores with the concept of the variables comprising at least one predefined criterion selected from the group consisting of: a Risk Assessment metric having changed by at least a predetermined amount and a length of time since a transmitted alert ([0013] discloses data being aggregated over predetermined periods of time (e.g., daily, weekly, monthly) by item to create location value scores to generate risk scores that provides a measure of risk assessment).

Therefore, from the teaching of Chen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Flynn, Connor et al., and Chandak et al. combination to include variables comprising at least a Risk Assessment metric or a length of time since a transmitted alert as taught by Chen in order to provide a standardized period of time to collect a contractor's historical data when conducting a risk assessment.

8. Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (WO 02/23443) in view of Lewis (6,513,019).

Flynn discloses the claimed invention as applied to Claims 1 and 11. However, Flynn fails to explicitly disclose a score history report.

Lewis discloses a system that enables financial institutions to rationalize risk in a cost-efficient manner with the concept of a score history report generated on a unique desired variable such as months (Col. 21, Lines 63-67; Col. 22, Lines 1-22, discloses

enabling a user to enter historical reports as of a specific data and time or across a historical period (i.e. daily, weekly, monthly, quarterly, annually)).

Therefore, from the teaching of Lewis, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for producing reduced risk loans using assessment of Flynn to include a score history report as taught by Lewis in order evaluate the financial history of a contractor over a period of time.

9. Claims 10, 20, 21, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flynn (WO 02/23443) in view of Zizzamia et al. (US 2004/0054553).

As per Claims 10 and 20, Flynn discloses the claimed invention as applied to Claims 1 and 11, above. However, Flynn fails to explicitly disclose a formula that generates a score using multivariate methods to produce a coefficient for an external historical contractor variable.

Zizzamia et al. discloses a system and method to predict future profitability and productivity of licensed professionals with the concept of a formula generating a score using multivariate methods to produce a coefficient for an external historical contractor variable and the coefficient represents the contribution the external variable to the CRAS ([0027] discloses using multivariate methods [0081] which provides a correlation coefficient for each of the predictive external variables).

Therefore, from the teaching of Zizzamia et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for producing reduced risk loans using assessment of Flynn to include a formula that

generates a score using multivariate methods to produce a coefficient for an external variable as taught by Zizzamia et al. in order to aid in predicting future behavior of the contractor.

As per Claim 21, Flynn discloses the claimed invention as applied to Claim 11, above. However, Flynn fails to explicitly disclose examining external historical contractor variables for cross-correlation against one another.

Zizzamia et al. discloses a system and method to predict future profitability and productivity of licensed professionals with the concept of examining external variables for cross-correlation against one another to validate the external variables ([0079] discloses predictor variables from the various external data sources are examined for cross-correlations).

Therefore, from the teaching of Zizzamia et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for producing reduced risk loans using assessment of Flynn to include examining external variables for cross-correlation against one another as taught by Zizzamia et al. in order to eliminate highly repetitive variables.

As per Claim 22, Flynn discloses the claimed invention as applied to Claim 21, above. However, Flynn fails to explicitly disclose associating an external historical contractor variable with an individual contractor's records.

Zizzamia et al. discloses a system and method to predict future profitability and productivity of licensed professionals with the concept of associating at least one individual external variable with an individual contractor's records based on a data key

associated with at least one external data source ([0046] discloses variables from external data sources are matched to producer data to identify a relationship between the variables and insurance producer productivity).

Therefore, from the teaching of Zizzamia et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for producing reduced risk loans using assessment of Flynn to include associating an external variable with an individual contractor's records as taught by Zizzamia et al. in order to aid in developing a method that is predictive a contractor's ability to perform.

As per Claim 23, Flynn discloses the claimed invention as applied to Claim 11, above. However, Flynn fails to explicitly disclose dividing the data into a relational data set.

Zizzamia et al. discloses a system and method to predict future profitability and productivity of licensed professionals with the concept of dividing the data into a relational data set for developing the score for refining and validating the data ([0085-0089] discloses developing a testing data set that provides the relationships in the data).

Therefore, from the teaching of Zizzamia et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for producing reduced risk loans using assessment of Flynn to include dividing the data into a relational data set as taught by Zizzamia et al. in order to monitor and minimize the overstating of the relationships in the data.

Response to Arguments

10. Applicant's arguments filed June 24, 2009 have been fully considered but they are not persuasive.

With regards to Applicant's arguments pertaining to the 112 2nd rejections of Claims 1-23. Examiner asserts the newly amended Claims 1, 2, 11, and 12 fails to rectify the 112 2nd issue regards the formula for generating a contractor risk assessment score. Claims 1 and 11 recite the formula for generating a contractor risk assessment score to be calculated by combining the weighted average of scores of the historical contractor variables. However, claims 2 and 12 discloses the CRAS score being calculated by dividing the assigned score on historical contractor variable by the maximum score on historical contractor variable and multiplying by 100 which will provide a percentage. The two formulas contradict themselves. The formula disclosed in Claims 1 and 11 calculates an average wherein the formula disclosed in Claims 2 and 12 calculates a percentage. As per the 112 2nd rejection regarding the symbol ε, Applicant's amendments to claims 2 and 12 are sufficient to overcome the 112 2nd rejection.

With regards to Applicant's arguments for Claims 1 and 11 in reference to the claim limitation stating "at least one element historical contractor variables including one or more contractor structure variables, one or more size of contractor business variables, one or more contractor stability variables, one or more contractor engagement variables and one or more contractor performance variables." Applicant has rebutted the obviousness rejection. Examiner maintains that it would have been

obvious to one of ordinary skill in the art at the time the invention was made to consider variables such as type and size of the business (i.e., structure and size), how long the business has been in operation (i.e. stability), the past performance of the business on other projects, and the type of projects the business are engaged in when performing a risk assessment in order to aid in determining whether the business will be able to repay the loan. Examiner provides McCabe et al. reference (2001) which pertains to performing risk assessments for contractors where in variables such as years in business (i.e. stability), experience (i.e. type of projects the business are engaged in), and safety record (i.e. past performance of the business) are used to determine a weighted risk assessment score. Examiner also asserts the type of historical variables hold little patentable weight in the method and system claim. Examiner asserts that the method a assigning a score to historical contractor variables would be performed the same regardless of the type of variable. Examiner also discloses the use to the score is considered intended use and holds little patentable weight. See Ex parte Masham, 2 USPQ2d 1647 (1987). The fact the risk assessment score of the present application is predictive of whether a contractor is able to complete a construction job on time and on budget does not patentable distinguish the risk assessment score disclosed in Flynn which is predictive of whether a contractor will be able to fulfill its obligation to repay a loan.

With regards to Applicant arguments for Claims 2-4 and 12-14 in reference to the claim limitation stating (CRAS) equaling [ε(Ai) / ε(Mi) * 100]. Examiner respectfully disagrees. Examiner asserts Connor discloses (CRAS) equaling [ε(Ai) / ε(Mi) * 100] via

calculating the actual score for risk factors (Ai) (via 44a) and calculating the maximum score for risk factors (Mi) (via 44b), wherein the actual score is divided by the maximum score and multiplied by 100 to obtain a percentage risk (CRAS) (via 44c) (Fig. 4).

As per Claims 5-8, 10, 15-18, and 20-23, all rejection made towards the dependent claims are maintained due to the lack of a reply by the applicant in regards to distinctly and specifically pointing out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and unpatentable over Flynn in view of Chandak, Chen, and Zizzamia.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon-Thurs. 7:30am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. L./
Examiner, Art Unit 3689

/Janice A. Mooneyham/
Supervisory Patent Examiner, Art Unit 3689